UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte R. DAVID L. CAMPBELL, PAUL E. ONNEN, EDWARD M.
SARAUSAD, and STEVEN W. PLATE

_____

Appeal 2008-003442
Application 09/927,899[1]
Technology Center 2100

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Decided: January 5, 2010

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Before LEE E. BARRETT, LANCE LEONARD BARRY, and JAMES R.
HUGHES, *Administrative Patent Judges.*

HUGHES, *Administrative Patent Judge.*

DECISION ON APPEAL

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[1] Application filed August 10, 2001. The real party in interest is Deep 9
Corp. (Br. 1.)

STATEMENT OF THE CASE

Appellants appeal the Examiner's final rejection of claims 1-3, 5-16, and 19-23 under authority of 35 U.S.C. § 134(a). Claims 4, 17, and 18 have been canceled. The Board of Patent Appeals and Interferences (BPAI) has jurisdiction under 35 U.S.C. § 6(b). The rejections are reversed.

Appellants' Invention

Appellants invented methods and systems for providing remote access to a server computer operative to store and update a network database. The server synchronizes user registration, deletion, and other administrative functions of a co-branded web site with a partner web site. (Spec. 1:10-12; 2:30-33.)[2]

Representative Claims

Independent claims 1 and 6 further illustrate the invention.[3] They read as follows:

> 1. A method for providing remote access to the
> facilities of a server computer, comprising:
> receiving a user request to access a first server computer;
> determining whether said user request may be granted;

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[2] We refer to Appellant's Specification ("Spec.") and Second Amended Appeal Brief ("Br.") filed February 22, 2007. We also refer to the Examiner's Answer ("Ans.") mailed July 9, 2007.
[3] We note that the Claim Appendix includes claim 11, which does not incorporate the amendments (Br. 4) entered in the Advisory Action mailed July 28, 2006. We find this to be harmless error and reference the Advisory Action with respect to claim 11.

in response to determining that said user request may be granted, determining whether access to a second server computer should also be granted; and

in response to determining that access to said second server computer should be granted, transmitting a request to access to said second server computer from said first server computer to said second server computer via a secure communications connection, said second server computer is operative to provide facilities for storing and updating a network database in a manner that is visually consistent with a Web site on said first server computer.

6.   A method for providing remote access to the facilities of a server computer, comprising:

receiving a request at a server computer operative to store and update a network database to add a new user to a group of users authorized to utilize said network database;

determining whether said request may be granted; and

in response to determining that said request may be granted, adding said new user to said group of users authorized to utilize said network database, said group of users defining a collaborative group spanning across said server computer and another server computer so as to allow users to share data.

Prior Art References

The Examiner relies on the following references as evidence of unpatentability:

Schmuck	US 5,946,686	Aug. 31, 1999
Nessett	US 5,968,176	Oct. 19, 1999
Hayes	US 6,339,826 B2	Jan. 15, 2002 (filed May 5, 1998)

Story   US 2002/0129058 A1   Sept. 12, 2002
                    (filed Jul. 28, 1997)

Kennelly   US 6,539,021 B1   Mar. 25, 2003
                    (filed Oct. 2, 1998)

Rejections on Appeal

The Examiner rejects claims 11-13 under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement.[4]

The Examiner rejects claims 6-8, 10, 22, and 23 under 35 U.S.C. § 102(e) as anticipated by Nessett.

The Examiner rejects claims 1-3 and 5 under 35 U.S.C. § 103(a) as obvious in view of Nessett and Story.

The Examiner rejects claim 9 under 35 U.S.C. § 103(a) as obvious in view of Nessett and Kennelly.

The Examiner rejects claims 11-13 under 35 U.S.C. § 103(a) as obvious in view of Nessett and Hayes.

The Examiner rejects claim 14 under 35 U.S.C. § 103(a) as obvious in view of Nessett and Schmuck.

The Examiner rejects claims 15, 16, and 19-21 under 35 U.S.C. § 103(a) as obvious in view of Nessett, Schmuck, and Hayes.

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[4] The Examiner withdraws this rejection in view of Appellants' arguments. (Ans. 13-14.) Therefore, the rejection is not before us on appeal, and we will not address the merits of the rejection.

Appellants' Contentions

Appellants contend, *inter alia*, that the Nessett reference does not anticipate the claimed subject matter of claim 6 because Nessett does not disclose the limitation of "receiving a request at a server computer operative to store and update the network database to add a new user to a group of users authorized to utilize said network database." (Br. 18.) Appellants reiterate these arguments with respect to the Nessett reference and the obviousness rejections of independent claims 1, 11, and 14. (Br. 25, 31, 35.)

Examiner's Findings and Conclusions

The Examiner finds that the prior art teaches each feature of Appellant's claims (Ans. 4-13), and maintains that each of the claims is properly rejected (Ans. 14-25). Specifically, the Examiner finds that Nessett discloses and teaches receiving a (user) request at a server. (Ans. 4, 6, 9, and 11.)

ISSUE

Based on Appellants' contentions, as well as the findings and conclusions of the Examiner, the pivotal issue before us is as follows.

Did Appellants establish that the Examiner erred in rejecting the noted claims under 35 U.S.C. § 102(e) and 35 U.S.C. § 103(a)? The issue turns on whether Nessett describes receiving a request at a server computer in the manner claimed.

FINDINGS OF FACT (FF)

Nessett Reference

1.   Nesset describes a network security system (firewall) in which multiple nodes may communicate securely. End systems may belong to groups established by input into a security policy of a network manager or by data in a topology database. (Col. 6, l. 61 to col. 9, l. 15.) Nessett's system also describes providing network access control, authentication, and authorization. (Col. 15, ll. 21-65.)

PRINCIPLES OF LAW

Prima Facie Case of Unpatentability

The allocation of burden requires that the United States Patent and Trademark Office (USPTO) produce the factual basis for its rejection of an application under 35 U.S.C. §§ 102 and 103. *In re Piasecki*, 745 F.2d 1468, 1472 (Fed. Cir. 1984) (citing *In re Warner*, 379 F.2d 1011, 1016 (CCPA 1967)). The Examiner bears the initial burden of presenting a prima facie case of unpatentability. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). Appellants have the opportunity on appeal to the Board of Patent Appeals and Interferences (BPAI) to demonstrate error in the Examiner's position. *See In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006).

Obviousness

A claimed invention is not patentable if the subject matter of the claimed invention would have been obvious to a person having ordinary skill in the art. 35 U.S.C. § 103(a); *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007) (hereinafter "*KSR*"); *Graham v. John Deere Co.*, 383 U.S. 1, 13

(1966) (hereinafter "*Graham*"). The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, (3) the level of skill in the art. *Graham*, 383 U.S. at 17-18. *See also KSR*, 550 U.S. at 407 ("While the sequence of these questions might be reordered in any particular case, the [Graham] factors continue to define the inquiry that controls.")

ANALYSIS

Appellants contend with respect to independent claims 6, 22, and 23 that the Nessett reference does not disclose or teach "receiving a request at a server computer operative to store and update the network database to add a new user to a group of users authorized to utilize said network database." (App. Br. 18.) This limitation, in varying form and scope, is also found in each of the other independent claims (claims 1, 11, and 14).

After reviewing the record on appeal, we find that the Examiner has not presented a prima facie case of anticipation or obviousness because the Examiner has failed to sufficiently show that Nesset discloses receiving a request at a server operative to store and update the network database. Rather, at most, Nessett teaches separately authenticating a user and adding new group members. Nessett does not expressly disclose a server receiving a request and updating a user database.

Nesset describes a network security system that allows multiple nodes to communicate securely. Nessett describes user access control, authentication, and authorization. Nessett also describes establishing groups by inputting data into a security policy resident in a network manager and/or

into a topology database. (FF 1.) However, Nessett does not explicitly describe a server performing these features, and the Examiner does not point out or explain how these features are disclosed or taught by Nessett. In fact, the Examiner does not even point out or discuss Nessett's disclosure of user authentication. Instead, the Examiner merely references Nessett's Figure 2, and states that Nessett's Stand-Alone Dialup End-System (Fig. 2, element 111) discloses receiving a request at a server. (Ans. 4, 6, 9, and 11, citing Nessett, col. 10, ll. 40-45; Fig. 2, element 111.) We cannot agree that an End-System discloses receiving a request at a server.

For the foregoing reasons, Appellants have persuaded us of error in the Examiner's anticipation rejection of claims 6-8, 10, 22, and 23, and obviousness rejections of claims 1-3, 5, 9, 11-16, and 19-21. Accordingly, we will not sustain the Examiner's rejections of the claims.

CONCLUSION OF LAW

On the record before us, we find that Appellants have established that the Examiner erred in rejecting the claims under 35 U.S.C. § 102(e) and 35 U.S.C. § 103(a) because Nessett does not disclose receiving a request at a server computer in the manner claimed.

DECISION

We reverse the Examiner's rejection of claims 6-8, 10, 22, and 23 under 35 U.S.C. § 102(e).

We reverse the Examiner's rejection of claims 1-3, 5, 9, 11-16, and 19-21 under 35 U.S.C. § 103(a).

REVERSED

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